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09/898,379

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Kovar et al.

Serial No.: 09/898,379

Group Art Unit: 2633

Filed: 7/5/2001

Examiner: DZUNG D. TRAN

Title: *Optical Modulator and Method for Polarization Bit Interleaving*STATEMENT

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I have been an employee at Lacasse & Associates, LLC since September 27, 1999. I first began working as a Patent Secretary, and later I was promoted to the Manager of Administrative Services. During my two years that I performed the duties of Manager of Administrative Services, I interviewed and hired Ms. Elizabeth Hein as a Patent Secretary, and she began her employment with our firm on April 15, 2002. I personally trained her on the patent prosecution process and the importance of docketing and inputting correct dates into our case tracking software, CTS Version 5, and I personally supervised and reviewed her work product for over a year and a half as well as the work products of other administrative staff. As Manager of Administrative Services, one of my duties was to enter data from USPTO correspondence into the CTS case tracking software and review the reminders for each administrative staff person as well as all of the patent agents every two weeks. The patent secretaries were also required to write all due dates on my wall calendar, as a way to keep me informed of all USPTO responses that were due to be completed. If there was anything that was nearly due, I would speak to the administrative staff person to inquire about the item due. For the weekly Patent Department meetings, I would provide each administrative staff person and patent agent with a copy of the

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monthly docket from CTS as well as a copy of the Patent Department Office Action task list that we maintained as a public folder in Outlook. We would compare the two lists in our meetings to make sure that all necessary responses were known.

After my two years as the Manager of Administrative Services, I was promoted to the position of Manager of Patent Services. Upon my promotion, I was asked by the firm's Director, Randy W. Lacasse, about a replacement for the Manager of Patent Services position. I recommended that Mr. Lacasse give Ms. Hein the opportunity to manage the Administrative Services Department due to her strong and unblemished work performance, knowledge of the patent process, as well as her enthusiasm and positive attitude. Ms. Hein was promoted to the position of Assistant Manager of Administrative Services in October 2003. During her time as Assistant Manager of Administrative Services, Ms. Hein was responsible for the same docketing duties that I was responsible for previously. I trained Ms. Hein on the responsibilities of the position and continued to periodically review her progress in the position as required by the Director. Also, since we began fully utilizing the CTS software in early 2000, I have been the Database Administrator for the case tracking software. Furthermore, after reviewing the CTS case history for this application, I discovered that there was never any entry of the office action mailed on June 7, 2004. The last action completed in the case, before we received the Notice of Abandonment for not responding to the office action mailed on June 7, 2004, was the update of the patent application publication information on May 30, 2002 (see example A, attached). This suggests that the office action was either never received or it was never entered into the CTS software, thus creating the lack of reminders to respond to the office action.

During my employment as a Patent Secretary and later as Manager of Administrative Services, I created, implemented, and trained Ms. Hein on the following procedure for handling

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incoming USPTO correspondence as stated in the Renewed Petition Under 37 CFR 1.137(a) and in the paragraph below.

After opening all incoming mail from the United States Patent and Trademark Office, the proper procedure for docketing incoming USPTO correspondence, specifically office actions, is as follows: (1) Log into CTS (our case management software); (2) while in CTS, search for our docket number by typing in the U.S. application number in the search form; (3) write our docket number on the envelope or a post-it note and attach it to the corresponding USPTO correspondence; (4) retrieve the file wrapper of the corresponding file from our record room; (5) write the mailing date of the office action on the front cover of the file wrapper; (6) return to CTS and access the office action screen of the corresponding case; (7) enter the mailing date from the front page of the office action into the "mailing date" field of the office action screen; (8) upon entering the mailing date at the office action screen, the software will prompt the user to enter the mailing date again in order to confirm the accuracy of the entry; (9) after entering the mailing date to confirm accuracy, the software generates two dates -- (a) the "Date Due", which is three months from the mailing date of the office action (two months if a final office action); and (b) the "Last Date to File", which is six months from the mailing date of the office action; (10) the user will be prompted to accept the dates; (11) after accepting the dates, the user then generates a letter to the client, notifying him of an office action; (12) the user then generates an amendment form for the patent agent to complete at a later date; (13) the employee makes two copies of the office action -- the original office action is sent to the client, one copy of the office action is hole-punched and placed in the incoming USPTO correspondence section of the file wrapper, and the other copy of the office action is placed in a working folder for the patent agent; (14) the employee then creates several labels for the patent agent's working folder indicating the following -- (a) our docket number for the case, (b) the two-month due date for the response to the office action, and (c) the three-month due date for the response to the office action; (15) the labels are placed on the front of the working folder and the copy of the office action is stamped with "COPY" on the front and placed in the working folder; (16) the employee gives the file wrapper to another employee who enters the following information into the shared "Patent Dept. Office Actions" task list in Microsoft Outlook -- the docket number, patent application title, client contact information, type of response needed, assigned patent agent initials, an indication of a "final" office action (if the office action is final), the due date, and the month of response for that due date; (17) the working folder and file wrapper are given to the

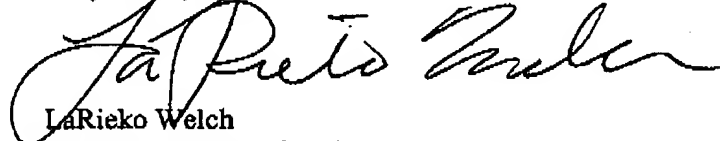
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appropriate patent secretary; (18) the patent secretary enters the due date on their personal desk or wall calendar; (19) the patent secretary enters the due date on the desk or wall calendar of the Assistant Manager of Administrative Services; and (20) finally, the working folder and file wrapper are given to the appropriate patent agent who will work on the response to the office action.

It is my opinion that Ms. Hein was adequately trained to perform the above-described duties. She performed these duties on a regular basis for almost three years without fail, and she was an exemplary, enthusiastic, and attentive employee. Therefore, there was no reason for me or anyone else to doubt her competence in following the above-referenced procedures for docketing incoming USPTO correspondence. Furthermore, at the time the docketing error occurred (approximately June 7, 2004), there were no physical signs such as overdue reminders, an abundance of correspondence in her inbox or desk, or unusual work habits that may have indicated that there was a problem with her performing her duties.

Respectfully submitted,



LaRieko Welch
Manager of Patent Services

1725 Duke Street
Suite 650
Alexandria, Virginia 22314
(703) 838-7683
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